EU-Malaysia Partnership and Cooperation Agreement

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PURPOSE: to conclude, on behalf of the European Union, the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: in November 2004, the Council authorised the Commission to negotiate individual Framework Agreements on Partnership and Cooperation (PCA) with Thailand, Indonesia, Singapore, the Philippines, Malaysia and Brunei. Negotiations with Malaysia started in February 2011. They were concluded following the 11th round of negotiations on 12 December 2015. Both sides initialled the PCA in Putrajaya on 6 April 2016.

The European Parliament was kept regularly informed throughout the negotiations.

The Commission considered that the objectives set by the Council in its negotiating directives had been met and that the draft agreement could be submitted for signature and conclusion.

On 4 July 2018, the High Representative and the Commission presented to the Council a new Joint Proposal for a Council Decision on the signing of the Framework Agreement (as a mixed agreement) and its provisional application. However, while agreeing on the mixity of the Agreement, Malaysia preferred not to apply the Agreement provisionally. Member States formally accepted not to apply the PCA provisionally.

The Commission's new proposal follows an exchange of letters between the chief negotiators, in which it is clarified that the signature of the Government of Malaysia on the agreement is on behalf of the country as a whole, i.e. at both federal and state level. By signing, the Government of Malaysia would express its intention to bind the whole of Malaysia, including States of Sabah and Sarawak. Following the entry into force of Agreement as stated in Article 58 of the Agreement, Malaysia as a whole would be bound by the Agreement.

CONTENT: the Commission proposes that the Council decide to approve, on behalf of the Union, the Framework Partnership and Cooperation Agreement (PCA) between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part.

The PCA is the first ever bilateral agreement between the EU and Malaysia and replaces the existing legal framework of the 1980 Cooperation Agreement between the European Economic Community and the member countries of the Association of South-East Asian Nations.

The PCA:

- contains legally binding commitments that are central to the EU's foreign policy, including provisions on human rights, non-proliferation, counter-terrorism, the International Criminal Court, migration and taxation;

- broadens considerably the scope for mutual engagement in the economic and trade domain as well as justice and home affairs;

- strengthens cooperation in a wide range of policy areas, including human rights, non-proliferation of weapons of mass destruction, counter-terrorism, fight against corruption and organised crime, trade, migration, environment, energy, climate change, transport, science and technology, employment and social affairs, education, agriculture, culture etc.

An important part of the PCA is devoted to trade cooperation, which paves the way for the conclusion of the ongoing negotiations on a free trade agreement (FTA).

The Agreement establishes a Joint Committee that will monitor the development of the bilateral relationship between the Parties. The Agreement includes a non-execution clause that provides for the possibility of suspending the application of the Agreement in case of violation of essential elements.

On a political note, the PCA with Malaysia marks an important step towards strengthening the EU’s role in South-East Asia, based on shared universal values such as democracy and human rights. It paves the way for enhancing political, regional and global cooperation between two likeminded partners.